

1
2
3
4
5
6
7
8
9
10

11 UNITED STATES DISTRICT COURT
12 WESTERN DISTRICT OF WASHINGTON
13 AT facility

14 DONALD O. SALAREA,

15 Plaintiff,

16 v.

17 DOCTORS OF MENTAL HEALTH AT
18 WASHINGTON CORRECTIONS CENTER *et*
al.,

19 Defendants.

Case No. C05-5679RJB

ORDER TO AMEND THE
COMPLAINT

This civil rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Plaintiff has been given leave to proceed *in forma pauperis*.

Review of the complaint reveals the complaint is deficient. The plaintiff names as defendants “doctors of mental health”, and facilities or units within the department of corrections, but, he does not name a person the court can attempt to serve.

In order to state a claim under 42 U.S.C. § 1983, a complaint must allege that (1) the conduct complained of was committed **by a person** acting under color of state law and that (2) the conduct

ORDER

1 deprived a person of a right, privilege, or immunity secured by the Constitution or laws of the United
2 States. Parratt v. Taylor, 451 U.S. 527, 535 (1981), *overruled on other grounds*, Daniels v.
3 Williams, 474 U.S. 327 (1986) (emphasis added). Section 1983 is the appropriate avenue to remedy
4 an alleged wrong only if both of these elements are present. Haygood v. Younger, 769 F.2d 1350,
5 1354 (9th Cir. 1985), *cert. denied*, 478 U.S. 1020 (1986).

6 The court needs plaintiff to name the doctor, not simple the doctors title. The plaintiff may
7 be able to obtain the name from his medical records. The court cannot serve a John Doe defendant.

8 Plaintiff will need to file an amended complaint. Plaintiff will also need to send the court a
9 copy of the complaint and filled out marshal service form for each person he wishes to name as a
10 defendant. The court will not order the Untied States Marshals Service to attempt service by mail
11 without copies of the complaint and filled out service forms. The law library at the facility should
12 have service forms. The amended complaint will act as a complete substitute for the original and
13 must be received on or before **December 23rd, 2005** or the court will enter a Report and
14 Recommendation that this action be dismissed.

15 The Clerk is directed to send a copy of this Order to plaintiff, and note the due date for the
16 amended complaint as **December 23rd, 2005**.

17

18 DATED this 17th day of November, 2005.

19

20

/S/ J. Kelley Arnold
J. Kelley Arnold
United States Magistrate Judge

21

22

23

24

25

26

27

28

ORDER